

AMENDED IN SENATE MAY 31, 2012

AMENDED IN SENATE MAY 2, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

## ASSEMBLY BILL

**No. 549**

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**Introduced by Assembly Member *Members Carter and Wieckowski***

February 16, 2011

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An act to amend Sections 42461, 42463, and 42476 of, to add Section 42461.5 to, and to repeal and add Section 42479 of, the Public Resources Code, relating to recycling.

### LEGISLATIVE COUNSEL'S DIGEST

AB 549, as amended, Carter. Recycling: electronic waste.

(1) Existing law, the Electronic Waste Recycling Act of 2003 (act), requires a retailer selling a covered electronic device in this state to collect a covered electronic waste recycling fee from the consumer, as specified. These fees are deposited in the Electronic Waste Recovery and Recycling Account, and the Department of Resources Recycling and Recovery (~~CalRecycle~~) (*department*) is continuously appropriated the money in the account to, among other things, make electronic waste recovery payments and recycling payments. ~~CalRecycle~~ *The department* is authorized to make these payments only if certain conditions are met. Existing law requires the act to be enforced pursuant to the hazardous waste control laws, a violation of which, including the making of a false statement or representation in a document, is a crime.

This bill would additionally require, as a condition of making these payments, that the covered electronic waste is demonstrated to have been generated by a person who used the covered electronic device while located in this state. The bill would specify that covered electronic

waste generated outside of the state and subsequently brought into the state is not eligible for payment and would require ~~CalRecycle the department~~ to establish documentation requirements necessary to demonstrate that covered electronic waste was generated in the state and eligible for payment. Since a false statement or representation in that document would be a crime, the bill would impose a state-mandated local program.

(2) The act requires ~~CalRecycle the department~~, for covered electronic waste collected for recycling on and after January 1, 2005, to make those electronic waste recycling and recovery payments for the collection and recycling of covered electronic waste to an authorized collector or covered electronic waste recycler, respectively, upon receipt of a completed and verified invoice submitted to ~~CalRecycle the department~~ by the authorized collector or recycler in the form and manner determined by ~~CalRecycle the department~~.

This bill would instead require ~~CalRecycle the department~~ to make those electronic waste recycling and recovery payments for the collection and recycling of covered e-waste to an authorized collector or covered e-waste recycler, respectively, upon completion of ~~CalRecycle's the department's~~ review of a payment claim, submitted to ~~CalRecycle the department~~ in the form and manner determined by ~~CalRecycle the department~~. The bill would also authorize ~~CalRecycle the department~~ to conduct a selective audit of authorized collectors, covered e-waste recyclers, or manufacturers receiving payments from ~~CalRecycle the department~~ to determine whether electronic waste recovery or recycling payments or payments to manufacturers are being made by ~~CalRecycle the department~~ according to the requirements of the act and the regulations adopted pursuant to that act, and would prescribe procedures for the appeal of ~~CalRecycle's the department's~~ denial or adjustment of a payment claim by a covered e-waste recycler that is dissatisfied with ~~CalRecycle's the department's~~ action in that regard.

The bill would also make conforming changes with reference to ~~CalRecycle the department~~.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 42461 of the Public Resources Code is  
2 amended to read:

3 42461. The Legislature finds and declares all of the following:

4 (a) The purpose of this chapter is to enact a comprehensive and  
5 innovative system for the reuse, recycling, and proper and legal  
6 disposal of covered electronic devices, and to provide incentives  
7 to design electronic devices that are less toxic, more recyclable,  
8 and that use recycled materials.

9 (b) It is the further purpose of this chapter to enact a law that  
10 establishes a program that is cost free and convenient for consumers  
11 and the public to return, recycle, and ensure the safe and  
12 environmentally-sound disposal of covered electronic devices.

13 (c) It is the intent of the Legislature that the cost associated with  
14 the handling, recycling, and disposal of covered electronic devices  
15 is the responsibility of the producers and consumers of covered  
16 electronic devices, and not local government or their service  
17 providers, state government, or taxpayers.

18 (d) In order to reduce the likelihood of illegal disposal of these  
19 hazardous materials, it is the intent of this chapter to ensure that  
20 any cost associated with the proper management of covered  
21 electronic devices be internalized by the producers and consumers  
22 of covered electronic devices at or before the point of purchase,  
23 and not at the point of discard.

24 (e) Manufacturers of covered electronic devices, in working to  
25 achieve the goals and objectives of this chapter, should have the  
26 flexibility to partner with each other and with those public sector  
27 entities and business enterprises that currently provide collection  
28 and processing services to develop and promote a safe and effective  
29 covered electronic device recycling system for California.

30 (f) The producers of electronic products, components, and  
31 devices should reduce and, to the extent feasible, ultimately phase  
32 out the use of hazardous materials in those products.

33 (g) Electronic products, components, and devices, to the greatest  
34 extent feasible, should be designed for extended life, repair, and  
35 reuse.

(h) The purpose of the ~~Hazardous Electronic Waste Recycling Act of 2003~~ is to provide sufficient funding for the safe, cost-free, and convenient collection and recycling of 100 percent of the covered electronic waste initially discarded in the state, to eliminate electronic waste stockpiles and legacy devices by December 31, 2007, to end the illegal disposal of covered electronic devices, to establish manufacturer responsibility for reporting to the board on the manufacturer's efforts to phase out hazardous materials in electronic devices and increase the use of recycled materials, and to ensure that electronic devices sold in the state do not violate the regulations adopted by the Department of Toxic Substances Control pursuant to Section 25214.10 of the Health and Safety Code.

SEC. 2. Section 42461.5 is added to the Public Resources Code, to read:

42461.5. (a) The Legislature finds and declares that the changes made by this act of the 2011–12 Regular Session of the Legislature to subdivision (h) of Section 42461, subdivision (f) of Section 42476, and subdivision (a) of Section 42479, clarify and strengthen the enforcement provisions of the act, so as to implement the Legislature's intent when this chapter was first enacted on January 1, 2003.

(b) The changes specified in subdivision (a) shall not be interpreted as affecting an administrative or legal enforcement action that was filed before, or is pending on, January 1, 2013, and shall not prevent the taking of a legal or administrative enforcement action that may be brought on or after January 1, 2013, with regard to any actions taken, or claims filed, before that date.

SEC. 3. Section 42463 of the Public Resources Code is amended to read:

42463. For the purposes of this chapter, the following terms have the following meanings, unless the context clearly requires otherwise:

(a) "Account" means the Electronic Waste Recovery and Recycling Account created in the Integrated Waste Management Fund under Section 42476.

(b) "Authorized collector" means any of the following:

(1) A city, county, or district that collects covered electronic devices.

(2) A person or entity that is required or authorized by a city, county, or district to collect covered electronic devices pursuant

1 to the terms of a contract, license, permit, or other written  
2 authorization.

3 (3) A nonprofit organization that collects or accepts covered  
4 electronic devices.

5 (4) A manufacturer or agent of the manufacturer that collects,  
6 consolidates, and transports covered electronic devices for  
7 recycling from consumers, businesses, institutions, and other  
8 generators.

9 (5) An entity that collects, handles, consolidates, and transports  
10 covered electronic devices and has filed applicable notifications  
11 with the department pursuant to Chapter 23 (commencing with  
12 Section 66273.1) of Division 4.5 of Title 22 of the California Code  
13 of Regulations.

14 ~~(e) “CalRecycle” means the Department of Resources Recycling~~  
15 ~~and Recovery.~~

16 ~~(d)~~

17 (c) “Consumer” means a person who purchases a new or  
18 refurbished covered electronic device in a transaction that is a  
19 retail sale or in a transaction to which a use tax applies pursuant  
20 to Part 1 (commencing with Section 6001) of Division 2 of the  
21 Revenue and Taxation Code.

22 ~~(e)~~

23 (d) Notwithstanding Section 40118, “department” means the  
24 Department of Toxic Substances Control.

25 ~~(f)~~

26 (e) (1) Except as provided in paragraph (2), “covered electronic  
27 device” means a video display device containing a screen greater  
28 than four inches, measured diagonally, that is identified in the  
29 regulations adopted by the department pursuant to subdivision (b)  
30 of Section 25214.10.1 of the Health and Safety Code.

31 (2) “Covered electronic device” does not include any of the  
32 following:

33 (A) A video display device that is a part of a motor vehicle, as  
34 defined in Section 415 of the Vehicle Code, or any component  
35 part of a motor vehicle assembled by, or for, a vehicle manufacturer  
36 or franchised dealer, including replacement parts for use in a motor  
37 vehicle.

38 (B) A video display device that is contained within, or a part of  
39 a piece of industrial, commercial, or medical equipment, including  
40 monitoring or control equipment.

1 (C) A video display device that is contained within a clothes  
2 washer, clothes dryer, refrigerator, refrigerator and freezer,  
3 microwave oven, conventional oven or range, dishwasher, room  
4 air-conditioner, dehumidifier, or air purifier.

5 (D) An electronic device, on and after the date that it ceases to  
6 be a covered electronic device under subdivision (e) of Section  
7 25214.10.1 of the Health and Safety Code.

8 ~~(g)~~

9 (f) “Covered electronic waste” or “covered e-waste” means a  
10 covered electronic device that is discarded.

11 ~~(h)~~

12 (g) “Covered electronic waste recycling fee” or “covered e-waste  
13 recycling fee” means the fee imposed pursuant to Article 3  
14 (commencing with Section 42464).

15 ~~(i)~~

16 (h) “Covered electronic waste recycler” or “covered e-waste  
17 recycler” means any of the following:

18 (1) A person who engages in the manual or mechanical  
19 separation of covered electronic devices to recover components  
20 and commodities contained therein for the purpose of reuse or  
21 recycling.

22 (2) A person who changes the physical or chemical composition  
23 of a covered electronic device, in accordance with the requirements  
24 of Chapter 6.5 (commencing with Section 25100) of Division 20  
25 of the Health and Safety Code and the regulations adopted pursuant  
26 to that chapter, by deconstructing, size reduction, crushing, cutting,  
27 sawing, compacting, shredding, or refining for purposes of  
28 segregating components, for purposes of recovering or recycling  
29 those components, and who arranges for the transport of those  
30 components to an end user.

31 (3) A manufacturer who meets any conditions established by  
32 this chapter and Chapter 6.5 (commencing with Section 25100)  
33 of Division 20 of the Health and Safety Code for the collection or  
34 recycling of covered electronic waste.

35 ~~(j)~~

36 (i) “Discarded” has the same meaning as defined in subdivision  
37 (b) of Section 25124 of the Health and Safety Code.

38 ~~(k)~~

1 (j) “Electronic waste recovery payment” means an amount  
2 established and paid by ~~CalRecycle~~ *the Department of Resources*  
3 *Recycling and Recovery* pursuant to Section 42477.

4 ~~(t)~~

5 (k) “Electronic waste recycling payment” means an amount  
6 established and paid by ~~CalRecycle~~ *the Department of Resources*  
7 *Recycling and Recovery* pursuant to Section 42478.

8 ~~(m)~~

9 (l) “Hazardous material” has the same meaning as defined in  
10 Section 25501 of the Health and Safety Code.

11 ~~(n)~~

12 (m) “Manufacturer” means either of the following:

13 (1) A person who manufactures a covered electronic device sold  
14 in this state.

15 (2) A person who sells a covered electronic device in this state  
16 under that person’s brand name.

17 ~~(o)~~

18 (n) “Person” means an individual, trust firm, joint stock  
19 company, business concern, and corporation, including, but not  
20 limited to, a government corporation, partnership, limited liability  
21 company, and association. Notwithstanding Section 40170,  
22 “person” also includes a city, county, city and county, district,  
23 commission, the state or a department, agency, or political  
24 subdivision thereof, an interstate body, and the United States and  
25 its agencies and instrumentalities to the extent permitted by law.

26 ~~(p)~~

27 (o) “Recycling” has the same meaning as defined in subdivision  
28 (a) of Section 25121.1 of the Health and Safety Code.

29 ~~(q)~~

30 (p) “Refurbished,” when used to describe a covered electronic  
31 device, means a device that the manufacturer has tested and  
32 returned to a condition that meets factory specifications for the  
33 device, has repackaged, and has labeled as refurbished.

34 ~~(r)~~

35 (q) “Retailer” means a person who makes a retail sale of a new  
36 or refurbished covered electronic device. “Retailer” includes a  
37 manufacturer of a covered electronic device who sells that covered  
38 electronic device directly to a consumer through any means,  
39 including, but not limited to, a transaction conducted through a

1 sales outlet, catalog, or the Internet, or any other similar electronic  
2 means.

3 ~~(s)~~

4 (r) (1) “Retail sale” has the same meaning as defined under  
5 Section 6007 of the Revenue and Taxation Code.

6 (2) “Retail sale” does not include the sale of a covered electronic  
7 device that is temporarily stored or used in California for the sole  
8 purpose of preparing the covered electronic device for use  
9 thereafter solely outside the state, and that is subsequently  
10 transported outside the state and thereafter used solely outside the  
11 state.

12 ~~(t)~~

13 (s) “Vendor” means a person that makes a sale of a covered  
14 electronic device for the purpose of resale to a retailer who is the  
15 lessor of the covered electronic device to a consumer under a lease  
16 that is a continuing sale and purchase pursuant to Part 1  
17 (commencing with Section 6001) of Division 2 of the Revenue  
18 and Taxation Code.

19 ~~(u)~~

20 (t) “Video display device” means an electronic device with an  
21 output surface that displays, or is capable of displaying, moving  
22 graphical images or a visual representation of image sequences or  
23 pictures, showing a number of quickly changing images on a screen  
24 in fast succession to create the illusion of motion, including, if  
25 applicable, a device that is an integral part of the display, in that  
26 it cannot be easily removed from the display by the consumer, that  
27 produces the moving image on the screen. A video display device  
28 may use, but is not limited to, a cathode ray tube (CRT), liquid  
29 crystal display (LCD), gas plasma, digital light processing, or other  
30 image projection technology.

31 SEC. 4. Section 42476 of the Public Resources Code is  
32 amended to read:

33 42476. (a) The Electronic Waste Recovery and Recycling  
34 Account is hereby established in the Integrated Waste Management  
35 Fund. All fees collected pursuant to this chapter shall be deposited  
36 in the account. Notwithstanding Section 13340 of the Government  
37 Code, the funds in the account are hereby continuously  
38 appropriated, without regard to fiscal year, for the following  
39 purposes:

1 (1) To pay refunds of the covered electronic waste recycling  
2 fee imposed under Section 42464.

3 (2) To make electronic waste recovery payments to an  
4 authorized collector of covered electronic waste pursuant to Section  
5 42479.

6 (3) To make electronic waste recycling payments to covered  
7 electronic waste recyclers pursuant to Section 42479.

8 (4) To make payments to manufacturers pursuant to subdivision  
9 (h).

10 (b) (1) The money in the account may be expended for the  
11 following purposes only upon appropriation by the Legislature in  
12 the annual Budget Act:

13 (A) For the administration of this chapter by ~~CalRecycle the~~  
14 *Department of Resources Recycling and Recovery* and the  
15 department.

16 (B) To reimburse the State Board of Equalization for its  
17 administrative costs of registering, collecting, making refunds, and  
18 auditing retailers and consumers in connection with the covered  
19 electronic waste recycling fee imposed under Section 42464.

20 (C) To provide funding to the department to implement and  
21 enforce Chapter 6.5 (commencing with Section 25100) of Division  
22 20 of the Health and Safety Code, as that chapter relates to covered  
23 electronic devices, and any regulations adopted by the department  
24 pursuant to that chapter.

25 (D) To establish the public information program specified in  
26 subdivision (d).

27 (2) Any fines or penalties collected pursuant to this chapter shall  
28 be deposited in the Electronic Waste Penalty Subaccount, which  
29 is hereby established in the account. The funds in the Electronic  
30 Waste Penalty Subaccount may be expended by ~~CalRecycle the~~  
31 *Department of Resources Recycling and Recovery* or the  
32 department only upon appropriation by the Legislature.

33 (c) Notwithstanding Section 16475 of the Government Code,  
34 any interest earned upon funds in the Electronic Waste Recovery  
35 and Recycling Account shall be deposited in that account for  
36 expenditure pursuant to this chapter.

37 (d) Not more than 1 percent of the funds annually deposited in  
38 the Electronic Waste Recovery and Recycling Account shall be  
39 expended for the purposes of establishing the public information  
40 program to educate the public in the hazards of improper covered

1 electronic device storage and disposal and on the opportunities to  
2 recycle covered electronic devices.

3 (e) ~~CalRecycle~~*The Department of Resources Recycling and*  
4 *Recovery* shall adopt regulations specifying cancellation methods  
5 for the recovery, processing, or recycling of covered electronic  
6 waste.

7 (f) ~~CalRecycle~~*The Department of Resources Recycling and*  
8 *Recovery* may pay an electronic waste recycling payment or  
9 electronic waste recovery payment only for covered electronic  
10 waste that meets all of the following conditions:

11 (1) (A) The covered electronic waste is demonstrated to have  
12 been generated by a person who used the covered electronic device  
13 while located in this state.

14 (B) Covered electronic waste generated outside of the state and  
15 subsequently brought into the state is not eligible for payment.

16 (C) ~~CalRecycle~~*The Department of Resources Recycling and*  
17 *Recovery* shall establish documentation requirements for purposes  
18 of this paragraph that are necessary to demonstrate that the covered  
19 electronic waste was generated in the state and eligible for payment.

20 (2) The covered electronic waste, including any residuals from  
21 the processing of the waste, is handled in compliance with all  
22 applicable statutes and regulations.

23 (3) The manufacturer or the authorized collector or recycler of  
24 the electronic waste provides a cost free and convenient opportunity  
25 to recycle electronic waste, in accordance with the legislative intent  
26 specified in subdivision (b) of Section 42461.

27 (4) If the covered electronic waste is processed, the covered  
28 electronic waste is processed in this state according to the  
29 cancellation method authorized by ~~CalRecycle~~*the Department of*  
30 *Resources Recycling and Recovery*.

31 (g) The Legislature hereby declares that the state is a market  
32 participant in the business of the recycling of covered electronic  
33 waste for all of the following reasons:

34 (1) The fee is collected from the state's consumers for covered  
35 electronic devices sold for use in the state.

36 (2) The purpose of the fee and subsequent payments is to prevent  
37 damage to the public health and the environment from waste  
38 generated in the state.

39 (3) The recycling system funded by the fee ensures that  
40 economically viable and sustainable markets are developed and

1 supported for recovered materials and components in order to  
2 conserve resources and maximize business and employment  
3 opportunities within the state.

4 (h) (1) ~~CalRecycle~~ *The Department of Resources Recycling*  
5 *and Recovery* may make a payment to a manufacturer that takes  
6 back a covered electronic device from a consumer in this state for  
7 purposes of recycling the device at a processing facility. The  
8 amount of the payment made by ~~CalRecycle~~ *the Department of*  
9 *Resources Recycling and Recovery* shall equal the value of the  
10 covered electronic waste recycling fee paid for that device. To  
11 qualify for a payment pursuant to this subdivision, the manufacturer  
12 shall demonstrate both of the following to ~~CalRecycle~~ *the*  
13 *Department of Resources Recycling and Recovery*:

14 (A) The covered electronic device for which payment is claimed  
15 was used in this state.

16 (B) The covered electronic waste for which a payment is  
17 claimed, including any residuals from the processing of the waste,  
18 has been, and will be, handled in compliance with all applicable  
19 statutes and regulations.

20 (2) A covered electronic device for which a payment is made  
21 under this subdivision is not eligible for an electronic waste  
22 recovery payment or an electronic waste recycling payment under  
23 Section 42479.

24 SEC. 5. Section 42479 of the Public Resources Code is  
25 repealed.

26 SEC. 6. Section 42479 is added to the Public Resources Code,  
27 to read:

28 42479. (a) (1) For covered electronic waste collected for  
29 recycling on and after January 1, 2005, ~~CalRecycle~~ *the Department*  
30 *of Resources Recycling and Recovery* shall make electronic waste  
31 recovery payments and electronic waste recycling payments for  
32 the collection and recycling of covered e-waste to an authorized  
33 collector or covered e-waste recycler, respectively, upon  
34 completion of ~~CalRecycle's review~~ *the review by the Department*  
35 *of Resources Recycling and Recovery* of a payment claim submitted  
36 to ~~CalRecycle~~ *the Department of Resources Recycling and*  
37 *Recovery* by the authorized collector or e-waste recycler in the  
38 form and manner determined by ~~CalRecycle~~ *the Department of*  
39 *Resources Recycling and Recovery*. ~~CalRecycle~~ *The Department*  
40 *of Resources Recycling and Recovery* may examine a payment

1 claim for a period of not more than 90 days from the date of receipt  
2 of the payment claim to validate the claim's completeness,  
3 accuracy, truthfulness, and compliance with applicable laws and  
4 regulations. All of the following shall be considered official records  
5 for purposes of Section 1280 of the Evidence Code:

6 (A) The results of a payment claim review or subsequent  
7 payment claim audit.

8 (B) Written information compiled by ~~CalRecycle~~ *the*  
9 *Department of Resources Recycling and Recovery* during a claim  
10 review or subsequent claim audit.

11 (2) To the extent authorized by Section 42477, a covered e-waste  
12 recycler shall make the electronic waste recovery payments to an  
13 authorized collector upon receipt of a completed and verified  
14 invoice submitted to the recycler by the authorized collector in the  
15 form and manner determined by the ~~CalRecycle~~ *Department of*  
16 *Resources Recycling and Recovery*.

17 (b) A covered e-waste recycler is eligible for a payment pursuant  
18 to this section only if the covered e-waste recycler meets all of the  
19 following requirements:

20 (1) The covered e-waste recycler is in compliance with  
21 applicable requirements of Article 6 (commencing with Section  
22 66273.70) of Chapter 23 of Division 4.5 of Title 22 of the  
23 California Code of Regulations.

24 (2) The covered e-waste recycler demonstrates to ~~CalRecycle~~  
25 *the Department of Resources Recycling and Recovery* that a facility  
26 utilized by the covered e-waste recycler for the handling,  
27 processing, refurbishment, or recycling of covered electronic  
28 devices meets all of the following standards:

29 (A) The facility has been inspected by the department within  
30 the past 12 months and had been found to be operating in  
31 conformance with all applicable laws, regulations, and ordinances.

32 (B) The facility is accessible during normal business hours for  
33 unannounced inspections by state or local agencies.

34 (C) The facility has health and safety, employee training, and  
35 environmental compliance plans and certifies compliance with the  
36 plans.

37 (D) The facility meets or exceeds the standards specified in  
38 Chapter 1 (commencing with Section 1171) of Part 4 of Division  
39 2 of, Division 4 (commencing with Section 3200) of, and Division  
40 5 (commencing with Section 6300) of, the Labor Code or, if all

1 or part of the work is to be performed in another state, the  
2 equivalent requirements of that state.

3 (c) ~~CalRecycle~~ *The Department of Resources Recycling and*  
4 *Recovery* may conduct a selective audit of authorized collectors,  
5 covered e-waste recyclers, or manufacturers receiving payments  
6 from ~~CalRecycle~~ *the Department of Resources Recycling and*  
7 *Recovery* to determine whether electronic waste recovery payments,  
8 electronic waste recycling payments, or payments to manufacturers  
9 are being paid by ~~CalRecycle~~ *the Department of Resources*  
10 *Recycling and Recovery* according to the requirements of this  
11 chapter and the regulations adopted pursuant to this chapter.  
12 ~~CalRecycle~~ *The Department of Resources Recycling and Recovery*  
13 may collect and recover from authorized collectors, covered  
14 e-waste recyclers, or manufacturers, with interest, any moneys  
15 improperly paid.

16 (d) (1) A covered e-waste recycler that is dissatisfied with  
17 ~~CalRecycle's~~ *the Department of Resources Recycling and*  
18 *Recovery's* denial or adjustment of a payment claim may appeal  
19 that action by filing a written appeal at the offices of ~~CalRecycle~~  
20 *the Department of Resources Recycling and Recovery* within 30  
21 days of the date of the notice denying or adjusting the claim.

22 (2) An appeal shall contain the covered e-waste recycler's name  
23 and identification number from its proof of approval, the month  
24 and year in question, a copy of the payment claim and the notice  
25 denying the claim, a ~~state~~ *statement* of the facts and the law  
26 forming the basis for appeal, a description of why ~~CalRecycle's~~ *the*  
27 *actions of the Department of Resources Recycling and Recovery*  
28 *were in error*, and any other documentation that supports the appeal.

29 (3) An appeal that is received by ~~CalRecycle~~ *the Department*  
30 *of Resources Recycling and Recovery* after 30 days from the date  
31 of the notice denying or adjusting the claim, or that lacks the  
32 required content, shall be denied by ~~CalRecycle~~ *the Department of*  
33 *Resources Recycling and Recovery* without a hearing or further  
34 consideration of the appeal.

35 (4) The hearing shall be before ~~CalRecycle's director~~ *the*  
36 *Director of Resources Recycling and Recovery* or *his or her*  
37 *designee*, who shall issue a written decision stating the factual and  
38 legal basis for the decision.

39 SEC. 7. No reimbursement is required by this act pursuant to  
40 Section 6 of Article XIII B of the California Constitution because

1 the only costs that may be incurred by a local agency or school  
2 district will be incurred because this act creates a new crime or  
3 infraction, eliminates a crime or infraction, or changes the penalty  
4 for a crime or infraction, within the meaning of Section 17556 of  
5 the Government Code, or changes the definition of a crime within  
6 the meaning of Section 6 of Article XIII B of the California  
7 Constitution.

O